



United States
Department of
Agriculture

Farmers
Home
Administration

Washington
D.C.
20250

FmHA AN No. 1385 (1965)

April 9, 1986

SUBJECT: Lease of Real Estate Security

TO: All FmHA State Directors

PURPOSE/INTENDED OUTCOME

The purpose of this AN is to provide guidance to field offices and provide consistency nationwide regarding Farmer Program (FP) borrowers leasing real estate security. The intended outcome is to have uniformity in the servicing of real estate security.

COMPARISON WITH PREVIOUS AN

No previous AN on this subject.

IMPLEMENTATION RESPONSIBILITIES

Section 1965.17 of FmHA Instruction 1965-A should be followed when an FP borrower proposes to, or actually does, lease real estate securing the FmHA debt. Section 1965.17(a) provides that in cases where the borrower leases real estate security for "more than three years or with an option to purchase, the County Supervisor will normally initiate liquidation action in accordance with §1965.26(b)." In such cases the fact that the lease has been entered into can be used as a reason for initiating liquidation.

There may be times, however, when FmHA actually wishes to approve a lease. The only time that FmHA needs to take action to approve a lease is if the lease is for more than three years and/or contains an option to purchase and FmHA wants to continue with the borrower. Rescheduling and reamortization authority can be considered in an instance where a borrower with FmHA consent temporarily leases part or all of the farm under "unusual circumstances" such as a death in the family or health reasons. If the County Supervisor believes FmHA should consent to a lease arrangement for more than three years or any lease with an option to purchase, prior approval of the Assistant Administrator, Farmer Programs, or the Administrator, if a Single Family Housing Loan is secured by the same security, is required.

If the real estate being leased is the farm on which the borrower lives and the lease is for less than three years and/or it contains no option to purchase, FmHA cannot send a Form FmHA 1924-25, "Notice of Intent to Take Adverse Action," to the borrower listing the existence of the lease as a grounds of nonmonetary default. However, if the borrower is no longer in any way involved in operating the farm, then FmHA can take action to initiate liquidation in accordance with FmHA Instruction 1965.26(d) based on failure to operate. The reason given on Form FmHA 1924-25 for the impending adverse action should be the borrower's failure to operate the farm and the lease should not be mentioned. Any

EXPIRATION DATE: April 30, 1987

FILING INSTRUCTIONS
Preceding FmHA
Instruction 1965-A



Farmers Home Administration is an Equal Opportunity Lender.
Complaints of discrimination should be sent to:
Secretary of Agriculture, Washington, D.C. 20250

1385(1965)

discussions with the borrower should concentrate on the fact that the loan agreements require the borrower to operate the farm and that the borrower is violating these agreements by not doing so. Please keep in mind that failure to operate cannot be used to initiate liquidation if, for example, the borrower has leased out part of the farm but continues to operate the remainder or has leased out the entire farm but still is involved in its operation in some way.

Please direct any questions pertaining to this subject to the Assistant Administrator of Farmer Programs on FTS 447-7597 or Commercial 202-447-7597.



VANCE L. CLARK
Administrator

Sent by Electronic Mail on Apr. 4, 1986 at 8:57 am by NASD/IMPS. The State Director should advise other personnel as appropriate.